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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Afghanistan

Note by the Secretary-General

The Secretary-General has the nonour to transmit to the members of the General Assembly a brief interim report on the situation of human rights in Afghanistan prepared by Mr. Choong-Hyun Paik, Special Rapporteur of the Commission on Human Rights, in accordance with General Assembly resolution 51/108 of 12 December 1996 and Economic and Social Council decision 1997/273 of 22 July 1997.

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ANNEX

Interim report on the situation of human rights in Afghanistan submitted by the Special Rapporteur of the Commission on Human Rights in accordance with General Assembly resolution 51/108 and Economic and Social Council decision 1997/273

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I. INTRODUCTION

1. A special rapporteur was first appointed to examine the human rights situation in Afghanistan in 1984 by the Chairman of the Commission on Human Rights, who had been requested to do so by the Economic and Social Council in its resolution 1984/37 of 24 May 1984. Since then, the mandate has been renewed regularly by resolutions of the Commission, endorsed by the Economic and Social Council, in which the Special Rapporteur was requested to submit reports to the Commission and to the General Assembly. The former are contained in documents E/CN.4/1985/21, E/CN.4/1986/24, E/CN.4/1987/22, E/CN.4/1988/25, E/CN.4/1989/24, E/CN.4/1990/25, E/CN.4/1991/31, E/CN.4/1992/33, E/CN.4/1993/42, E/CN.4/1994/53, E/CN.4/1995/64, E/CN.4/1996/64 and E/CN.4/1997/59 and the latter in the annexes to documents A/40/843, A/41/778, A/42/667 and Corr.1, A/43/742, A/44/669, A/45/664, A/46/606, A/47/656, A/48/584, A/49/650, A/50/567 and A/51/481. Mr. Choong-Hyun Paik was appointed Special Rapporteur on the situation of human rights in Afghanistan in April 1995.

2. At its fifty-third session, the Commission on Human Rights decided, in its resolution 1997/65 of 16 April 1997, to extend the mandate of the Special Rapporteur for one year, an extension which was approved by the Economic and Social Council in its decision 1997/273 of 22 July 1997.

3. Prior to finalizing the present report and in order to gain comprehensive insight into the situation covered by his mandate, the Special Rapporteur visited Mazar-i-Sharif, Bamyan, Herat and Kandahar in Afghanistan from 27 July to 3 August 1997 and Islamabad and Peshawar in Pakistan on 27 and 31 July and on 1 and 2 August 1997.

4. In Afghanistan, the Special Rapporteur met in Mazar-i-Sharif with the Minister of State for Foreign Affairs, Mr. Abdul Rahim Ghafoorzai; with the leader of the Hezbe Wahadat political party in northern Afghanistan, Member of the Central Committee, President of the Provincial Council of Balkh Province and Director, Political Affairs, Northern Areas, Ustad Haji Mohammad Mohaqiq; with the Governor of Jowzjan province and deputy to General Abdul Malik, who is in charge of civilian affairs in the northern areas, Mr. Karim Zarih; with the women comprising the Community Forum Development Organization; with representatives of the NATURE and Rescue Mission projects; as well as with the Director of the Marastoon home for orphans and disabled persons. In Bamyan, he met with the leader of the Hezbe Wahadat party, Mr. Karim Khalili; with members of the Central Council (Shura) of the Hezbe Wahadat party; with the members of the Women's Council of the Hezbe Wahadat party; and with the head of the Directorate for the Preservation of Artistic and Cultural Heritage of Bamyan Province, Ustad Haji Safwat. In addition, the Special Rapporteur visited the giant Buddha statues. In Herat, he met with the Deputy Governor of Herat province, Mullah Haji Abdul Manan, and with the members of the judiciary, including the Director-General of Courts, the head of the Attorney's Office, the head of the General Security Court, the head of the Civil Court, the head and a judge of the Commercial Court and a judge from the Criminal Court. In the vicinity of Herat, the Special Rapporteur met in the Mashlaq camp with recent returnees from the Islamic Republic of Iran. In Kandahar, he met with the Governor of Kandahar Province, Mullah Hassan, and with the head of the

Department for the Suppression of Smuggling and Drug Trafficking of the Kandahar Council (Shura), Mullah Abdul Hamid. In all the cities that he visited in Afghanistan, the Special Rapporteur met with representatives of United Nations agencies, national and international humanitarian and non-governmental organizations, as well as with private individuals.

5. In Pakistan, the Special Rapporteur met in Islamabad with the Secretary General of the Pakistan National Commission for the United Nations Educational, Scientific and Cultural Organization (UNESCO), Mr. Mirza Muhammad Mushir, and with two eminent Pakistani Islamic scholars. While in Islamabad, he also met with the representative of the Taliban authorities in Pakistan, Maulawi Shahabuddin Dilawar. In Peshawar, the Special Rapporteur met with the Regional Commissioner for Afghan Refugees, North-West Frontier Province, Mr. Gulzar Khan; with the Additional Commissioner, Mr. Imran Zeb; with the Additional Commissioner in charge of the Social Welfare Cell, Mr. Ali Gohar, and visited the Nasir Bagh camp for Afghan refugees, where he met with long-standing residents as well as recent arrivals. While in Peshawar, he met with the representatives of the Afghan human rights organization Cooperation Centre for Afghanistan, with representatives of the Afghan Women's Network, with members of the Writers' Union of Free Afghanistan, with members of the Council of Understanding and National Unity of Afghanistan and with the representatives of the Afghan Women's Council. In both Islamabad and Peshawar, the Special Rapporteur met with representatives of United Nations agencies, national and international humanitarian and non-governmental organizations, as well as with private individuals.

6. The Special Rapporteur wishes to express his sincere appreciation to the governmental authorities of Afghanistan and Pakistan for having extended their full cooperation during the course of the mission. He also wishes to thank the provincial authorities in Mazar-i-Sharif, Bamyan, Herat and Kandahar for the valuable assistance accorded to him when he visited those areas.

7. The Special Rapporteur wishes to thank in particular the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan for the most efficient logistical support and kind assistance extended to him in the field.

8. The Special Rapporteur has the honour to submit his interim report to the General Assembly, which was finalized on 15 September 1997, in compliance with General Assembly resolution 51/108 of 12 December 1996 and Economic and Social Council decision 1997/293. It covers the period from 20 February 1997, the date of the publication of the Special Rapporteur's report to the Commission on Human Rights at its fifty-third session (E/CN.4/1997/59), to 15 September 1997.

II. OUTLINE OF POLITICAL AND MILITARY DEVELOPMENTS SINCE THE SUBMISSION OF THE PREVIOUS REPORT

A. General

9. The overall political situation in Afghanistan continued to be influenced primarily by military developments and remained highly volatile. At the beginning of March 1997, there were four front lines north of Kabul between the Taliban and the forces comprising the Supreme Council for the Defence of Afghanistan, mainly forces led by General Dostom, the leader of the National Islamic Movement of Afghanistan (NIMA), those led by commander of the Shurae Nizar, Ahmad Shah Massoud, who is allied with President Rabbani of the Jamiat Islami political party, and of the forces of the Hezbe Wahadat party, primarily composed of Shia Muslim Afghans of Hazara ethnic origin led by Mr. Karim Khalili. The nearest front line was located some 100 kilometres north of Kabul, at the entrance to the Panjshir valley. Heavy fighting was continuing in Badghis Province, while sporadic clashes were taking place in the western, eastern, central and northern parts of the country. However, no significant changes were taking place on the ground. On 29 April 1997, fighting broke out briefly between rival commanders from the Jamiat Islami and Shurae Nizar factions in Faizabad, in Badakhshan Province. At the beginning of April, the Taliban leader, Mullah Mohammad Omar, is reported to have stated that he believed that a military solution to the Afghan conflict was likely. In a report dated 16 June 1997 (A/51/929-S/1997/482), the Secretary-General stated that the "warring parties seem bent on resolving their problems through military means rather than through peaceful negotiations and have paid no attention to the many calls by the Security Council, the Head of the Special Mission and other countries for a ceasefire and dialogue". He concluded that prospects for peace were bleak for the immediate future.

10. The Secretary-General added, however, that while the warring parties had shown little interest in a peaceful solution, it was noteworthy that some individuals and groups of Afghans had taken initiatives to mobilize moderate, influential Afghans inside and outside Afghanistan who were not directly involved in the ongoing fighting. He regarded them as very positive insofar as those initiatives aimed to give a voice to the majority in Afghan society who had been silenced by the prolonged warfare. During his visit to the area, the Special Rapporteur was informed about the existence of the Muslim Anti-War Movement of Afghanistan.

11. On 19 May 1997, the Supreme Council for the Defence of Afghanistan changed composition when General Abdul Malik, the head of the Foreign Affairs Department of NIMA ousted its head, General Dostom, and switched allegiance to the Taliban. General Malik is alleged to have taken numerous prisoners and to have handed over to the Taliban the former Governor of Herat Province, General Ismail Khan, along with 700 of his troops. General Dostom left the country on 24 May and took refuge in Turkey. Taliban forces entered the northern city of Mazar-i-Sharif on 24 May 1997. Fighting was also reported in the Jowzjan, Kapisa, Wardak and Kunar provinces. The Taliban gained control of the Salang pass and moved a large number of troops into areas to the north of the Hindu Kush mountain range.

12. The Taliban forces were driven out of Mazar-i-Sharif four days later, reportedly because the agreement they had reached with General Malik, whom they had appointed as deputy minister for foreign affairs, had not been respected. Extremely violent clashes with intensive street fighting broke out in the city when the Taliban forces entered neighbourhoods populated by ethnic Hazaras and tried to disarm them and General Malik's troops. Allegations have been made that there was also a genuine popular movement against the Taliban. General Malik then switched back his allegiance to the Supreme Council for the Defence of Afghanistan and together with the Hezbe Wahadat forces ousted the Taliban from Mazar-i-Sharif on 28 May. It was reported that more than 300 Taliban troops had been killed and that several hundred were wounded. In addition, the forces of General Malik are said to have taken prisoner more than 2,000 Taliban troops, including several high-ranking officials, as well as a number of Pakistani nationals.

13. After the withdrawal of the Taliban from Mazar-i-Sharif at the end of May, the forces of commander Massoud cut off the northern part of the Salang tunnel and took two localities on its southern side, thereby cutting off approximately 2,000 Taliban troops who had advanced north of the Hindu Kush. Fighting, including air raids and the exchange of artillery fire, continued in the western, central and northern parts of the country and the general situation remained fluid. On 2 June, the Taliban authorities ordered the closing of the Iranian embassy in Kabul. On 20 July, Commander Massoud's troops continued to advance towards Kabul and took over the Bagram air base located some 50 kilometres from the city. Fighting and bombing raids were also reported in a number of other provinces. On 3 June, the Supreme Council for the Defence of Afghanistan was renamed the United Islamic Salvation Front of Afghanistan. The front line near Kabul advanced to a distance of some 20 to 25 kilometres from the city. On 30 June, the former President of Afghanistan, Mr. Sibghatullah Mojaddidi, went to Afghanistan in an attempt to mediate between the Taliban and General Malik. On 4 July, the Council of Understanding and National Unity of Afghanistan, which supports the United Nations efforts to arrive at a negotiated settlement of the conflict, decided to send a six-member delegation to Afghanistan in an attempt to convince the warring factions to implement a ceasefire.

14. On 11 July, the leaders of the United Islamic Salvation Front of Afghanistan held a meeting at Puli-Khumri, in Baghlan Province, at which they decided to appoint for a period of six months Mr. Abdul Rahim Ghafoorzai as the Prime Minister of their government, which would be composed of technocrats and impartial personalities, with the aim of drafting a constitution, electoral laws, political party laws and of convening a Grand National Assembly (Loya Jirga) under the supervision of the United Nations. The city of Mazar-i-Sharif was to serve as its provisional headquarters and it was decided to change the national flag from green, white and black to black, red and green. President Burhanuddin Rabbani would retain his post while General Malik would be Minister for Foreign Affairs. The meeting also discussed a common military strategy to be adopted against the Taliban movement. Mr. Ghafoorzai and a number of other officials of the Front were killed on 21 August 1997 in an airplane crash in Bamyan Province.

15. On 8 July, it was reported that the Taliban had accepted the formation of a political commission mandated to reach an agreement about a ceasefire, the exchange of prisoners and on the type of future government for Afghanistan. On 19 August, the United Islamic Salvation Front of Afghanistan stated that it would not participate in the work of the commission without the previous demilitarization of Kabul. On 21 August, street fighting broke out in Mazar-i-Sharif between forces loyal to General Malik and those loyal to General Dostom. Also in August, the leader of the Hezbe Islami political party, Mr. Gulbuddin Hekmatyar, called for the formation of a third Afghan force for lack of progress on any issue achieved by the northern alliance and the Taliban.

16. Heavy fighting, including aerial bombardment, rocket and artillery fire, continued north of Kabul and in several other parts of the country. On 9 September, inter-factional fighting broke out in Mazar-i-Sharif and the former head of NIMA, General Dostom, returned to the city from Turkey while General Malik reportedly left for Shebergan. When a Hezbe Islami commander switched allegiance to the Taliban, they advanced to the city of Tashqurgan some 50 kilometres from Mazar-i-Sharif. The Taliban subsequently advanced to the city airport but were pushed back to a distance of some 35 kilometres. At the time of the finalization of the present report, heavy fighting was also taking place in Kunduz and north of Kabul. On 18 September, the Taliban captured the port of Hairatan on the banks of the Amu Darya (Oxus) river located some 60 kilometres from Mazar-i-Sharif.

B. Action by the international community

17. At the beginning of the period covered by the present report, Dr. Norbert Holl, the head of the United Nations Special Mission to Afghanistan (UNSMA), convened a second round of discussions of the Technical Working Group, composed of representatives of the Taliban and of the Northern Alliance, with a view to arriving at an immediate ceasefire that would be conducive to the establishment of a mechanism for continued dialogue leading to a more comprehensive and lasting peace settlement. The discussions did not produce any tangible results. In March, the Government of Japan conducted talks in Tokyo with the representatives of a number of Afghan factions and expressed its readiness to host a peace conference.

18. The United Nations tried to improve the understanding by the Taliban of its activities and objectives. A two-day workshop was held to that effect at Kandahar on 2 and 3 April 1997.

19. On 16 April 1997, in a statement by the President (S/PRST/1997/20), the Security Council called upon combatants in Afghanistan to work towards a negotiated peace and urged Afghan parties to participate in "serious and honest" talks with United Nations mediators. The Council stated that it strongly believed that a negotiated settlement was the only solution to the long-standing conflict in the country.

20. After the entry of the Taliban in Mazar-i-Sharif on 24 May 1997, three countries gave the Taliban diplomatic recognition as the legitimate Government of Afghanistan: Pakistan (25 May), Saudi Arabia (26 May) and the United Arab

Emirates (27 May). The Government of Pakistan appointed Additional Secretary at the Ministry for Foreign Affairs, Mr. Iftikhar Murshed, as its Special Envoy to Afghanistan in order to help the parties in the conflict arrive at a negotiated solution.

21. On 9 July, in a statement by the President (S/PRST/1997/35), the Security Council expressed grave concern at the continued escalation of the conflict in Afghanistan and called for an immediate halt to the fighting. It called upon all Afghan parties to return to the negotiating table and to work for a broad-based, fully representative government that would protect the rights of all Afghans and abide by the country's international obligations. In addition, the Council expressed concern over the continuing discrimination against girls and women, violations of human rights and violations of international humanitarian law.

22. In July 1997, the Secretary-General named Mr. Lakhdar Brahimi (Algeria) as his Special Envoy on Afghanistan. Mr. Brahimi arrived in Islamabad on 15 August to assess the United Nations peacemaking activities in the country, to hold talks with different Afghan factions as well as high-ranking officials from interested and relevant countries and parties in the region and to submit a report for further action for peace by the United Nations. The principal issues discussed were the introduction of an immediate ceasefire, the exchange of prisoners and the demilitarization of Kabul.

23. On 15 August 1997, the United States of America decided to suspend operations temporarily at the Afghan Embassy in Washington, which was asked to close by 28 August.

III. GENERAL OBSERVATIONS CONCERNING THE HUMAN RIGHTS SITUATION

24. One of the principal reasons cited for the current situation of human rights in Afghanistan was the lack of central power, governmental institutions, unified legal system and a clear social, political and economic system. It was stated that numerous human rights violations stemmed from the absence of a functioning State system, including social development programmes and a national treasury to pay the salaries of civil servants. The lack of a consistent policy-making body was compounded by the absence of a clear line of command and a lack of respect for hierarchy. Parts of Afghanistan appeared as separate states. The general security situation throughout the country had deteriorated and fundamental freedoms and law and order were not respected. The view was expressed that the neglect of the country's right to self-determination amounted to neglect of human rights as a whole and that the people of Afghanistan were said to have no voice or say in the administration of their country. There appeared to be insufficient willingness to bring peace to Afghanistan. A group of Afghans told the Special Rapporteur that the situation of human rights could not be worse.

25. The situation of human rights in Afghanistan did not improve during the period under review. A disquieting feature of the ongoing conflict is that the ethnic element appears to have become quite severe and have resulted in the

oppression of members of given communities by those opposing them. The front line between the Taliban and the United Islamic Salvation Front of Afghanistan is reported to almost coincide with the ethnic divide in the country.

26. In his report dated 16 June (A/51/929-S/1997/482), the Secretary-General stated that the continued hostilities had made the Afghan factions even more uncompromising and unwilling to accept repeated overtures from the United Nations and others for talks on a ceasefire, adding that unabated foreign interference in support of one or the other faction had enabled the antagonists to continue on a confrontational path. He stated that "to make matters worse, the conflict is increasingly being fuelled by strong ethnic feelings between the predominantly Pushtun Taliban on the one hand and the Tajiks, Hazaras and Uzbeks, who comprise the opposition camp, on the other". The Special Rapporteur was informed, however, that in the past, once a war ended, the Afghan people had always had the strength to sit together and start life anew.

27. The situation of Afghan women remains one of the most preoccupying aspects of the situation of human rights in Afghanistan as a whole and did not improve during the period under review.

28. The Special Rapporteur was informed that violations of human rights by the Taliban and their crackdown against the populations in areas they controlled were commensurate to the pressure they faced on the battlefield. The Special Rapporteur was able to observe that persons among the Taliban whom he had met and thought of as relatively moderate in the past had adopted harder attitudes towards respect for human rights after the recent setbacks faced by the movement. The Taliban appeared increasingly as just another armed group in the almost two decades-long Afghan conflict. The view was expressed that in view of the Taliban's almost complete lack of institutional capacity, the decrees issued were aimed at humiliating people and showing them who was in power and that their actions were governed entirely by military goals.

29. It was reported on 26 April by Radio Shariah that a high-ranking Taliban leader, Mullah Mohammad Hassan, had stated that the Taliban would not pay attention to concerns over their human rights record. He is said to have indicated that "we do not care about anybody as long as the religion of Allah is maintained". It should be recalled that the Taliban have a highly idiosyncratic vision of Islam that has been disputed by numerous Sunni Islamic scholars as representing at best a tribal rural code of behaviour applied only in some parts of Afghanistan of which only one aspect is being exploited.

IV. RULE OF LAW AND ADMINISTRATION OF JUSTICE

A. General

30. The principal achievement that the Taliban claim to have brought to the areas they control is peace and security. This was eroded to a considerable extent in the course of the current reporting period. The crime rate has risen in both Kabul and other major cities. The feeling of insecurity has been aggravated by the recent waves of arrests, mainly in Kabul and Herat. The Deputy Governor of Herat informed the Special Rapporteur in July that since the

people had been disarmed, there was no possibility of revolt against the Taliban. In paragraph 30 of his report to the Commission on Human Rights (E/CN.4/1997/59), the Special Rapporteur indicated that the Acting Deputy Minister for Foreign Affairs of the Taliban had told him that "disarmed people were forced to obey the Government".

31. The Special Rapporteur met once again with the members of the judiciary in Herat. He was informed that the Attorney's office studied a given case and prepared the files. The cases were subsequently dealt with by the security court when they concerned smuggling and bribery, by a court for general civilian rights and by a commercial court in matters involving tradesmen. Criminal courts dealt with theft, homicide and prostitution. The General Directorate was the final instance. The Special Rapporteur was informed that a number of the members of the judiciary had exercised their functions before the Taliban came to the city and that there were 12 female prisoners who were detained in a separate prison. In order to ensure their impartiality, the judges were forbidden to accept gifts or invitations to meals. There were no Shia Moslem judges since the Hannafi Sunni Islamic school of thought was applied. The large prison compound in the city was used for both civilian and military detainees. Offences by the Taliban were tried in both civilian and military courts. If defendants thought that procedural law or the Shariah had not been respected with regard to the verdict, they could address themselves to the court of appeal, which was the equivalent of the supreme court and final instance of judgement. The Special Rapporteur was informed that at the time of the Khalifs, there was an Islamic institution called the court of claims and petitions which should normally exist when an Islamic government was in power. The Special Rapporteur was informed that two things were common to human rights and Islam: social justice and general security.

32. The Special Rapporteur told the Attorney that in that case, when a member of the Taliban religious police saw a person on the street violating the dress code, the person should be referred to a court for sentencing and not be subjected to the meting out of summary justice on the spot, on the street. He was informed that above the judicial structure and all the courts there was the Amir al Momineen (Leader of the faithful), the Taliban leader Mullah Mohammad Omar, who had actually created the religious police that was directly under his command. The Special Rapporteur was informed that Mullah Omar had addressed a letter to the religious police stating that they could carry out the punishment directly on the street, which was more lenient than if the persons were to go through the courts. A person could be held in custody from one to a maximum of seven days or a member of the religious police could talk to and try to dissuade the person. The street was only for the application of light punishments so that people could avoid a heavy court procedure.

33. When asked about the detention of Afghan Shia Muslims by the Taliban authorities, the Attorney responded that none were ever arrested for reasons of religion since they were considered as brothers, many were in Taliban ranks in other parts of the country and were fighting the jihad (holy war). Of those detained, 40 per cent had committed political crimes, such as activities against the Government, fomenting acts against the Government and creating trouble.

34. The Taliban authorities continue to apply strictly the decrees issued by the religious police. Some are reported to have been applied more strictly than in the past. In Kabul, 700 men were arrested for not having proper beards. In Maidan Shar, 700 persons were arrested for having short beards and not wearing turbans. Persons have been detained in shipping containers for this type of "offence".

35. Five Afghan and two French employees of the aid organization International Action Against Hunger were arrested in Kabul on 21 February 1997, after a lunch organized by the organization's foreign female staff for its Afghan female staff. Although the seven men had not attended the lunch, they were sentenced for being in the same compound as unveiled Afghan women. The two French employees were detained, in violation of diplomatic norms, and sentenced to one month in prison and deportation from Afghanistan. They are reported to have been released on 10 March 1997 and to have left the country immediately thereafter since it was considered that they had already served their sentence. The five members of the Afghan staff were sentenced to one-and-a-half months of imprisonment and to between 9 and 29 lashes.

36. On 20 March 1997, a munitions store exploded in a residential area of Jalalabad. Some 35 persons were killed and 190 were injured. A crater 10 metres deep and 50 metres wide resulted from the explosion. It was reported that all prisoners in a nearby detention centre had been killed. Another store containing 4 to 6 tons of ammunition and a clinic of the International Committee of the Red Cross (ICRC) are located in the vicinity of the explosion site. This was said to be the second accidental explosion of its kind in a residential area in Afghanistan. On 4 June, a massive explosion took place in a munitions store in Kabul.

37. Security has deteriorated remarkably in the northern part of Afghanistan which is under the control of the United Islamic Salvation Front of Afghanistan. During the events which took place in Mazar-i-Sharif at the end of May, the United Nations guest house and a number of United Nations offices were looted, reportedly by a commander belonging to the anti-Taliban alliance. No action is said to have been subsequently taken by the authorities. Mr. Ghafoorzai, the Minister of State for Foreign Affairs, assured the Special Rapporteur that a task force would be created to help recover a number of vehicles and other equipment provided by the international community that were observed in the area. International United Nations staff and aid workers were evacuated from the city after several raids on United Nations premises and expressions of anti-foreign sentiment. Owing to the fighting and aerial bombing in Kabul at the end of July, part of the international community was obliged to leave the city. The tense situation resulted in the setting up at random of numerous security checkpoints throughout the city. The setting up of numerous checkpoints and road patrols was reported at the end of August in Mazar-i-Sharif. The crime rate soared in Mazar-i-Sharif and the economic situation in the area was adversely affected by the closure of the border with Uzbekistan at the end of May.

38. The current security situation in Mazar-i-Sharif has forced most of the international agencies to evacuate their foreign staff. Widespread looting by gangs from the city, reportedly often at gunpoint, took place as of 9 September

when interfactional fighting broke out in Mazar-i-Sharif and the Taliban advanced up to a distance of 15 kilometres from the city before being pushed back to Tashqurgan, some 50 kilometres away. Given the extent of the theft, which included such indispensable and costly equipment as vehicles, radios, satellite telephones and bathroom fittings, most aid agencies are unable to work and were planning a temporary withdrawal of their staff at the time of the finalization of the present report. The Taliban are reported to have offered full cooperation to United Nations aid agencies in evacuating their staff.

39. It has been reported that in Herat, in May 1997, the Shia Hazara community, who constitute 65 to 75 per cent of the population, began experiencing serious intimidation on the part of the Taliban because of their ethnic origin. Intimidation of Hazaras and Panjshiris was reported in Kabul in August.

40. It has been alleged that the crime rate in Kabul has increased and that a number of bombing incidents have taken place near the airport. Law enforcement in general is said to have declined while ethnic tension appears to be on the rise. On 16 July, five armed men claiming that they were Taliban broke into the home of a female foreign staff member of a United Nations agency, tied her up and stole the valuables. The guard was beaten and tied up. The crime rate has also risen in Herat and Jalalabad. The situation of the international community is rendered more complicated by the lack of a consistent policy-making body, of clearly delineated competencies and of a deficient enforcement capability.

41. It has been alleged that the population of a number of areas north of Kabul to which Hazara troops had advanced recently revolted against them because of their retaliation and harsh treatment of the local population. Allegations were made in particular that the Hazara troops had taken young boys and girls for their entertainment.

42. The Special Rapporteur was told that a war crimes tribunal should be created for Afghanistan.

B. Enjoyment of fundamental freedoms

43. In February it was reported that there had been a crackdown in Herat against men who failed to cover their heads in public. In addition, a special commission is said to have been created in order to purify the army and ministries, and to enforce the regulations prohibiting soldiers from smoking, shaving their beards and having long hair. It was also reported that the authorities had on occasion stopped men on the street to check whether other parts of their bodies were shaven. The celebration of the Afghan New Year, the Nowruz, which marks the first day of spring, was prohibited by the Taliban authorities as un-Islamic. It was reported that a broadcast of Radio Shariah in Kabul stated that "Celebration of New Year has no special importance in the framework of Shariat (Islamic law), rather it is prohibited". It was reported that the Taliban authorities in Herat did not allow the celebration of the Id Moslem religious holiday because of the fighting. It was reported that 66 civil servants in Kabul had been fired on 24 March 1997 for having trimmed their beards. Instructions were issued to the population of Kabul in March to screen the ground floor and first floor of their houses so that women could not be seen

from outside the houses. It was reported that in Kabul in May, five men who had trimmed their beards and a tailor who had taken the measurements of women had been punished by the mobile units of the religious police. In June, it was proclaimed that no applause would be allowed during sports events since it was an alien custom. The participation of women in sports was reportedly not considered necessary by religious scholars. In July, two female doctors and nurses were beaten in hospitals in Kabul and a male driver was beaten for talking to a woman. It was announced that on 16 August 30 men in Kabul had been punished for trimming their beards. The Special Rapporteur was informed that it was forbidden to fasten trousers with elastic and cords should be used instead.

44. During the Special Rapporteur's visit to Herat at the end of July 1997, a campaign of shaving the heads of men stopped at random in the street was under way in that city. It was reported that checkpoints manned by Taliban forces and barbers had been set up and that barbers were paid 5,000 afghanis for each haircut. The Special Rapporteur met with a member of the United Nations staff who had had a haircut the day before his head was shaved in the street. The Special Rapporteur was informed that the Taliban used the length of a Coca Cola can or large Russian glasses to measure beards and wrapped a turban around the beard to see if it came out below. A number of women found with uncovered faces were beaten in the market. A shopkeeper was imprisoned for one night for serving female customers and a man spent five days in prison for lack of a beard. The Special Rapporteur was informed that a man who was not wearing a turban had been stopped in the street and forced to give blood. In addition, it was reported that owners of vehicles were forced to drive supplies to the front. The forcible removal of male nurses was also reported. It is believed that the Taliban does not force people to fight since they cannot be trusted to fight for them. The Special Rapporteur was informed that persons stopped in the street for having long hair or other "offences" of the Taliban behavioural code would not be arrested if they stated that they were Sunni Moslems. Persons speaking Pashtu on the street would also tend to encounter fewer problems than those speaking Dari. The Special Rapporteur was informed that on 15 July, a car carrying four Hazaras was stopped on the road between Kabul and Maidan Shar and the car was set on fire in order to punish the driver for carrying Hazaras.

45. On 2 March 1997, foreign news agencies in Kabul were notified by the press centre of the Taliban Foreign Ministry that "photography and filming of living objects is forbidden and contrary to the principles of the Shariah of the Islamic State of Afghanistan". In breach of the inviolability of United Nations premises, the offices of the Food and Agriculture Organization of the United Nations (FAO) in Jalalabad were raided by Taliban forces in June and cassettes were confiscated on that occasion. It has been reported that the office received instructions from the Taliban authorities that the office should remove all pictures from its printed materials and publications.

46. A decree was issued prohibiting journalists and other foreigners from renting cars and taking private taxis in Kabul. In August 1997 journalists were warned by the Acting Deputy Minister of Information to dispatch reports that truly reflected the situation, not to resort to analysis and eyewitness reports and to avoid giving a "false impression" of the situation in Afghanistan. They were warned that if they carried on with such reports, the matter would be treated seriously.

47. When the Taliban entered Mazar-i-Sharif on 24 May, they immediately announced that women should stay at home unless accompanied by close male blood relatives and that men should grow beards. In addition, television, video recordings and music cassettes were banned. They are also reported to have torn down signs in the city in front of the Hazrat Ali (Blue Mosque) shrine.

V. SPECIFIC HUMAN RIGHTS ISSUES

A. Summary or arbitrary executions and the right to life

48. It has been alleged that some 200 Pakistani students were killed in Afghanistan during the fighting that erupted in May 1997 when the Taliban were driven out of Mazar-i-Sharif. It has also been alleged that 10 Taliban prisoners were executed in northern Afghanistan in July. An eleventh person is reported to have escaped.

49. Reports were received on 20 August that Taliban fighters on the front lines around Kabul were shooting unarmed civilians who were trying to leave the city because of the fighting in order to prevent them from joining their opponents. Many people were reportedly forced to leave the city at night in order not to be shot.

B. Torture and other cruel, inhuman or degrading treatment

50. During his visit to Mazar-i-Sharif, the Special Rapporteur was informed that cries of prisoners being tortured could be heard in the city of Kunduz. The prisoners were reportedly detained at the airport in order to serve as human shields in order to prevent its bombardment.

51. Allegations have been made that after the Taliban had been forced to withdraw from Puli-Khumri in May, houses inhabited by Pashtuns were attacked, the men were killed and the women were raped.

52. In July 1997, it was reported that two Pashtun women had been mutilated in Charikar.

53. During his visit to Bamyan, the Special Rapporteur was informed that the badly mutilated body of a Hezbe Wahadat fighter who had been killed by Taliban forces had been discovered at the end of July.

C. Capital punishment

54. A woman was stoned to death in Laghman Province in March 1997 on charges of adultery. She is said to have been married but trying to leave the district with a man who was not her husband. The Special Rapporteur was informed that only women tended to be stoned to death in such cases.

55. It has been alleged that a mullah (cleric) belonging to the Taliban movement had raped and killed five women, whose bodies were thrown into the

river. His execution by public hanging is reported to have been announced three times. The cleric is said to have been released for being a good Talib.

56. The Special Rapporteur was informed that three persons had been executed for homicide in Kandahar since the beginning of the year.

D. Corporal punishment

57. The Special Rapporteur was informed that one amputation had taken place in Kandahar during the period under review. The person was said to have engaged in highway robbery and to have tortured his victims.

58. It has been reported that the sentence of corporal punishment, consisting of 9 to 29 lashes, had been applied to the five members of the Afghan staff of the non-governmental organization International Action Against Hunger who had been found guilty on 21 March 1997 of being in the same compound as unveiled Afghan women (see para. 35 above). The whipping was reported to have taken place in front of the court. The men were allowed to keep their clothes on. The whip was said to have consisted of a piece of thick leather measuring approximately 6 by 60 centimetres.

59. It was reported that one man had his hand and foot amputated in Kabul on 21 April 1997 and that at least two other men were awaiting amputation. It was feared that many persons had been sentenced to amputations by Islamic courts in swift trials, with no legal counsel or availability of a mechanism for appeal.

60. It was reported that on 22 July religious police had entered the Indira Ghandi Hospital in Kabul and had beaten a number of women who were not fully covered.

E. Arbitrary arrest and detention

61. It was reported that 25 employees of aid organizations had been arrested arbitrarily on 28 April and that 18 had been released on 3 May. It was reported that at least 12 Afghan employees of three aid agencies had been arrested in Kabul at the beginning of May.

62. It was reported in July that numerous men, possibly more than 600, belonging to the Tajik, Uzbek and Hazara tribes had disappeared from Kabul and were presumed to have been abducted for future exchanges against Taliban prisoners held by the forces opposing them. Pakistani newspapers reported that the number of persons arrested could amount to considerably more than 2,000 and that they were detained in Puli-Charkhi prison as well as in other detention centres. They also reported that the Taliban had conducted house-to-house searches and had begun forced recruitment in Kabul. It was reported in August that numerous men had been arrested and detained in the capital on suspicion of possessing weapons, as well as of having links with opposition forces. Panjshiris and Hazaras are said to feel particularly vulnerable. A Taliban official was reported to have affirmed that persons who felt vulnerable were probably guilty of something.

63. The Special Rapporteur was informed that a prominent member of the Shia community in Herat, Sheikh Mohammad Hassan Wasiq, had been arrested in Herat. Some 65 to 70 Shia Moslem Afghans from all walks of life were also arrested. Of that number, 10 to 15 were reportedly freed after paying a ransom of from US$ 1,000 to $4,000 and the rest remained in prison. It was also reported that between 50 and 150 persons, the majority of them Hazaras, had been arrested in a village near Herat at the end of July. It was stated that persons claimed to be Sunni Moslems were released. It was also alleged that in July the Taliban had arrested some 300 to 400 persons in the area near the border and had brought them to Herat. It was reported that between 150 and 200 persons had been detained under bad conditions, without the possibility of receiving visitors in the basement of a private home that belonged to a member of the Jamiat Islami party.

64. The Special Rapporteur was informed that a group of 15 Shia notables from Herat, including an important cleric and a number of wealthy merchants, had been arrested by the Taliban between 16 and 20 July 1997 and taken to an undisclosed location. The wife of one of the most prominent clerics in the group was subsequently given his turban, shoes and prayer beads, and it was presumed that he was dead. It was believed that many among the group might have been killed. At least 15 people were believed to have been arrested arbitrarily from a village near Herat at the end of July. Many merchants are believed to be arbitrarily detained for reasons of extortion.

65. Large-scale arbitrary arrests were reported at the beginning of August in Wardak Province. The situation is said to have been resolved since.

66. It was reported that on the night of 25 August 1997, the Taliban authorities in Kabul had arrested and detained between 300 and 400 persons, for reasons that were unknown.

F. Situation of prisoners

67. It is estimated that there are more than 70 detention centres throughout Afghanistan, most of which are regularly visited by ICRC. The number of prisoners in Afghanistan has more than doubled since May 1997, from an estimated 3,000 to 7,000. It has been indicated that numerous private prisons maintained by local commanders continue to exist. Prisoners are often held as bargaining chips for exchange with adversaries. The treatment of both civilian and non-civilian prisoners of war has given rise to serious concern. The conditions in a certain number of prisons have been described as unsatisfactory.

68. After the brief takeover of Mazar-i-Sharif by the Taliban forces from 24 to 28 May, it is estimated that up to 3,000 Taliban were taken prisoner by the forces of General Malik. Some 1,600 prisoners are believed to be detained in approximately 10 locations in the Panjshir valley by the forces of Commander Massoud. Pakistani newspapers reported in July that approximately 550 Pakistanis had also been taken prisoner in the north of Afghanistan and were currently detained in a number of locations. During his visit to Mazar-i-Sharif, the Special Rapporteur was shown a number of files with photographs collected by the magistrates carrying out the investigations

regarding Pakistani prisoners. Large numbers of persons are believed to be detained in Shebergan and Maimana. Some 60 Taliban and 50 Pakistani prisoners were believed to have been killed in Maimana, in Faryab province, when the Taliban bombed the city. ICRC has not had access to those prisoners.

69. General Ismail Khan, the former Governor of Herat, and 700 of his troops were handed to the Taliban by General Malik on 19 May 1997 when he switched allegiance to the Taliban. General Khan and his men were reported to have been transferred subsequently to Kandahar. ICRC was able to visit the prison facilities and had visited General Khan. In June 1997, the Special Rapporteur joined in an urgent appeal addressed to the Taliban authorities in Kandahar and Kabul by the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on torture, seeking clarification of the circumstances of the detention of General Khan, who was said not to have access to a lawyer, with a view to ensuring that his rights to life and physical and mental integrity were protected. There are an estimated 1,200 prisoners in Sarposa prison in Kandahar and an estimated 1,500 in the city. Prisoners in Kandahar reportedly received only 400 grams of bread a day. Many were said to be detained with children. A few Iranians were thought to be detained by the Taliban in Kandahar. It was also reported that the Taliban had imprisoned 107 men who belonged to the forces of Haji Abdul Qadir, the former Governor of Nangarhar Province. It is alleged that there are some 800 prisoners detained by the Taliban in Herat. On 3 August, the leader of the Taliban, Mullah Mohammad Omar, was reported to have stated that there could be neither meaningful peace talks nor the formation of a joint political commission without the previous release of the Taliban prisoners held by the opposition in the north of the country. The Taliban decided in August to hold separate negotiations with Mr. Karim Khalili, the head of the Hezbe Wahadat party, and Commander Ahman Shah Massoud but not with General Malik, who holds the largest number of Taliban prisoners.

G. Amnesty decrees

70. On 26 June 1997, the Taliban administration's Chief Justice of the Supreme Court, Alhaj Abdul Satar Sanaie, issued a general amnesty decree for all Afghan refugees living in the Islamic Republic of Iran, Pakistan and other countries, the first of its kind to be extended by any Afghan authority (see appendix I to the present report). It provides guarantees for the safe and dignified return of refugees, respect for their basic human rights and exemption from prosecution for non-personal criminal offences committed before leaving the country, as well as for draft evasion and desertion. The amnesty decree invites refugees to participate in the reconciliation and reconstruction of their country and the consolidation of peace and economic development and provides guarantees for the recovery and restitution of or reparations regarding property. The decree also provides for cooperation with international organizations in monitoring the treatment of returnees.

H. Right to education

71. Education is described as the current critical issue for Afghanistan. The general situation regarding education has not improved and important differences continue to exist between the cities and rural parts of the country. The situation is described as bad, both for boys and girls, in particular in urban areas under the control of the Taliban who have banned female education in all parts of the country under their control. The general trend in education is described as a shift from regular schools to home schools since home schools are accepted. Even in cases when it is allowed, negotiations concerning education reportedly have to be negotiated on a case-by-case basis. It was reported, however, that girls were allowed to attend primary school in certain parts of the country.

72. Although steps were taken to segregate education in Mazar-i-Sharif after the passage of the Taliban at the end of May, education was reported to be taking place in the northern part of the country. After the withdrawal of the Taliban, a number of classes at Balkh University were segregated. However, women were reportedly allowed to continue teaching classes with male students.

73. The University of Kabul reopened on 9 March 1997 only for male students. It was reported that the Taliban Acting Minister of Higher and Vocational Education had stated that separate education for women would come in the future, if the authorities had sufficient resources. He indicated that women's attendance was conditional on segregation and that they would only be allowed to study medicine, education and moral and other social subjects. Also in March, the Acting Minister stated that it was an obligation in Islam for both boys and girls to go to school but that schools must be segregated to avoid corruption. He indicated that the issue had been put to the Islamic scholars and it was hoped that they would soon reach their decision. In this connection, the Special Rapporteur wishes to recall the information he provided in paragraphs 88 and 111 of his report to the Commission on Human Rights after speaking with the Chairman of the Council of Religious Scholars in Kandahar (E/CN.4/1997/59). A workshop to discuss education was held from 12 to 14 May in Kandahar with the participation of the Taliban, the United Nations Development Programme (UNDP), UNESCO, the United Nations Children's Fund (UNICEF) and the Agency Coordinating Body for Afghan Relief. It revealed that the Taliban were not prepared to change their position regarding the education of girls.

74. The Special Rapporteur was informed by the Deputy Governor of Herat that the essence of the Taliban movement was to be in the service of the essence of the religion of Islam, of the customs of the people of the country and to uphold and defend the rights of Moslems. He told the Special Rapporteur that the Taliban had taken over in order to give women back their rights and to defend them, in addition to protecting the dignity of women. The Deputy Governor stated that for a provisional emergency period, they had closed schools to women since it was important and urgent to protect their dignity. He indicated that the Taliban were not against the education of women and that it was a temporary measure of an urgent character since one of the principles of the Koran was education for all. The wearing of the veil was mandatory and would have to be upheld. He stated that if women were given the freedom to go to the market and the street, their rights would be violated and people would say that they could

be lost or kidnapped, although he stressed that it was a temporary situation given that the situation was not favourable. The Deputy Governor told the Special Rapporteur that if schools for women were to be opened in Herat, it would cause problems in other parts of Afghanistan and would have bad repercussions in other provinces. He indicated, however, that the moral code did not allow a woman to go to a male doctor and that many women in the cities were practising medicine. The Deputy Governor stated that the Taliban had brought about total security for women but that anything that happened to women was their responsibility and they did not want them to lose their honour and dignity.

75. Other representatives of the Taliban authorities whom the Special Rapporteur met stated that girls would be allowed to be educated after the age of 10 in conformity with the Shariah provided that their honour was maintained. However, most of his Taliban interlocutors presented the by now customary implausible excuses: "when peace and security is achieved", "when there are insufficient funds for implementing segregated education" and "when we take over the entire country", to which a new excuse was added: "there will be protests in other parts of the country if we allow it here".

76. The Special Rapporteur was told that a Talib had said that if there had been no schools in the country, Afghanistan would not have had such evils as the Amins, Tarakis and Najibullahs and would not be in such a mess.

77. The Special Rapporteur was informed by the Governor of Kandahar that no more than 1 per cent of the female population would be interested in education in a city such as Kabul. As regards the employment of women in administration and education, he stated that they had closed the brothels and were thinking of how to make education available, adding that it was their religious right to stop prostitution. The Governor indicated that the Taliban wanted to introduce some sort of constitution for education, which they hoped would be accepted by the international community. The Special Rapporteur was told by the head of the Department for the Suppression of Smuggling and Drug Trafficking of the Kandahar Council that once the area was rid of drugs, things like education could be discussed.

78. The Special Rapporteur was informed on a number of occasions that the leaders of the Taliban movement, who have banned female education in all parts of Afghanistan that they control, send their daughters to school in the Pakistani cities of Quetta and Peshawar.

79. Although the school attendance of girls in the central and southern parts of Afghanistan has always been low, it is currently said to be non-existent. This is also the case in the western part of the country and in Kabul where girls are said to have constituted 40 per cent of all schoolchildren in Kabul and 30 per cent in Herat. The Special Rapporteur was informed that a number of girls were allowed to attend school in the camps for internally displaced persons in Herat and that male education in general was suffering since only 30 per cent of all teachers in the city were male. One man informed the Special Rapporteur that his son went to school only two days a week for lack of teachers, whose total in the past included 2,800 females. Female education has continued in the northern part of Afghanistan, where girls account for

25 per cent of pupils. The prohibition of female employment in areas under the control of the Taliban movement has also had a negative impact on the education of boys owing to an insufficient number of male teachers. For example, women are said to have constituted 70 per cent of the teachers in Badghis Province. A number of literacy and educational programmes have been implemented by United Nations agencies and non-governmental organizations in various parts of the country. Training programmes for women are carried out only in the field of health as the only sector where women are allowed to work in areas controlled by the Taliban.

80. On 13 and 14 August, the Minister of State for Foreign Affairs of Norway discussed female access to education with the Taliban authorities in Kabul. It was decided to set up a mixed Norwegian/Taliban commission on educational programmes for girls and boys in Kabul and the Government of Norway offered to provide immediately funding for 10 schools if boys and girls would have equal access. A similar proposal made by UNICEF and UNESCO in Kandahar was refused. The Special Rapporteur was informed that a considerable private donation for the education of boys and girls had met with the same refusal.

81. When he spoke with Afghan refugees in Peshawar, the Special Rapporteur was made keenly aware of their apprehensions concerning the education of their children, in particular of girls who can no longer be educated in the greater part of Afghanistan. Education beyond primary school has been halted because of severe budget cuts in international aid although the refugee camps might constitute the venues of the only remaining organized education for Afghan women. A number of private groups are maintaining a few secondary school facilities. It is estimated that 4,000 Afghan girls and 35,000 Afghan boys currently receive education in Peshawar.

82. An important medium of education and the heightening of awareness has been the "New Home, New Life" radio series developed by Mr. John Butt of the British Broadcasting Corporation (BBC), which incorporates cultural, social, economic, human rights, peace, health, conflict resolution, mine awareness and other issues of vital daily importance for the population of Afghanistan. The BBC series has encountered immense success and popularity and is rendered accessible to all segments of the Afghan population by being presented in the form of a "soap opera" around an evolving story.

83. Afghanistan is a country where both physical structures and human capacities have suffered destruction for almost two decades, with attendant adverse effects for both teaching and learning processes. UNESCO has developed a strategy plan for basic education entitled "Grassroots reconstruction of education for Afghanistan" aimed at developing the professional capacity of educational personnel through the development of materials designed for that purpose. The importance of educating girls has been stressed since they will ultimately become mothers and will thereby perpetuate the role of education in society. The Special Rapporteur was informed by scholars that it was a religious obligation in Islam to acquire education and that deprivation of education constituted a disobedience of Islamic principles. The view was expressed that the motivations for banning female education on part of the Taliban were neither legal, financial or based on security but were probably

politically motivated. One of the most serious consequences of the conflict in Afghanistan was the brain-drain of its educated people.

84. Female education is not the only one where setbacks are being experienced. As the Special Rapporteur has indicated in his previous reports, given that a large part and sometimes the majority of teachers in Afghanistan were women, male education has also suffered significantly since the banning of female employment and education by the Taliban authorities in areas of Afghanistan that they control. It may take several generations to redress the situation. Afghanistan is already ill-equipped to confront the twenty-first century. Recent fighting in the country has set the situation of children back even further. Even playgrounds are reported to have been used for other purposes.

I. Gender-based discrimination

85. The situation of the rights of Afghan women, including their right to life, liberty and security of the person as well as other fundamental human rights has deteriorated further during the period under review. The growing threat to the rights of Afghan women and girls, including the prohibition of female employment and education in the greater part of Afghanistan, is already being felt in a society where the role of women is diminishing rapidly and will continue to do so in the future. Gender equality in general is a means to promote human rights, reduce poverty and create a democratic system that addresses the needs of both men and women in society. Given that many Afghan women are cut off from the media and other sources of information, either because of sheer poverty or other causes of inaccessibility, the Special Rapporteur noted that their sense of desperation was even greater because they lived under the impression that the world was not aware of the extent of their plight. One of their principal grievances was that they felt that they did not have the opportunity to raise their voice. The Special Rapporteur noted that even some Afghan refugee women living in Pakistan believed this to be true.

86. The Special Rapporteur was informed that during the government of President Rabbani in Kabul, the Supreme Court had ruled that women were not allowed to work and go to offices and schools but should remain at home. The ruling is said to have been published in the Official Gazette but women had resisted so it was never applied.

87. During his recent visit to the area, the Special Rapporteur heard for the first time preference being expressed for a situation of aerial bombardment, rocket and artillery attacks over the current situation of women in Afghan cities under the control of the Taliban movement. The advantage of rockets and missiles was that they only killed a limited number of persons but did not stop others from leaving their houses and going to work.

88. During his meetings with the representatives of the Community Forum Development Organization, a support organization for civil society in Mazar-i-Sharif, and with the members of the Afghan Women's Network and other women's organizations, as well as with female members of Afghan organizations, the Special Rapporteur was once again made keenly aware of the enormous potential that the existing generation of women in Afghanistan has for all

aspects of the life of its civil society. Should the current situation continue, where the majority of Afghan women have no access to work and, even more seriously, no access to education, the effects for Afghanistan would be truly disastrous and would set the country back a number of generations, well into the twenty-first century. During a gathering of eminent Afghan intellectuals and former political figures, the Special Rapporteur's attention was drawn to the fact that they were the product of a half century of efforts in that regard.

89. On 24 March 1997, the Director-General of UNESCO expressed his concern about developments in certain parts of Afghanistan and stated that UNESCO, true to its ideal of education for all without regard to race, sex, or any other social or economic condition, must condemn practices like the closure of schools for girls and oppose a system which denies the participation of women in building a better world.

90. UNICEF held two 5-day workshops on gender and development in April and May 1997 in order to raise awareness about and ensure that United Nations agencies and non-governmental organizations take gender issues into account when planning their programmes. On 30 May 1997, the Advisory Group on Gender Issues in Afghanistan, which is composed of Afghan and foreign male and female staff working for United Nations agencies and non-governmental organizations that carry out programmes in Afghanistan and other countries, appealed to the States Members of the United Nations and to the Credentials Committee of the General Assembly to pay careful attention to the human rights record of the Taliban movement when considering its application for recognition by the United Nations. United Nations agencies working in the field decided to carry out a gender training programme for all members of the United Nations staff, which would also be open to participants from non-governmental organizations.

91. The Secretary-General stated in June that the issue of women's and girls' rights remains a priority for the United Nations and the international community. During the second meeting of Member States with influence in Afghanistan convened by the United Nations in New York on 16 April, all participants voiced their distress at the continued plight of the Afghan people, with special attention drawn to women and girls. At its first meeting on 21 April, the Afghanistan Support Group, composed of donor countries and concerned organizations, agreed to endorse measures to ensure a common approach on the upholding of women's rights. On 9 July 1997, in a statement by the President (S/PRST/1997/35), the Security Council voiced its concern over the continuing discrimination against girls and women.

92. When they entered Mazar-i-Sharif on 24 May 1997, the Taliban immediately announced that women were banned from working and receiving education. Nominally, even after the withdrawal of the Taliban, areas in the north of Afghanistan continue to be subjected to a ban on women's employment and the education of girls. Women were reportedly also not allowed to leave the city. In June 1997, foreign aid agencies in Mazar-i-Sharif were instructed by the Department of Foreign Affairs of the National Islamic Movement of Afghanistan to stop employing female Afghan staff, in contradiction of pronouncements made previously by General Malik that the employment and education of women would be allowed to continue. The instructions are reported to have been issued by the

Jehadi (Holy War) Shura (Council) in the northern part of Afghanistan which is headed by the Governor of Balkh province and entailed a reduction in the activities of international aid agencies. Subsequently it has been reported that Afghan women would be allowed to work only in agencies headed by women. However, the Special Rapporteur was informed by the leader of the Hezbe Wahadat party in northern Afghanistan that activities of women in the area were carried out in full compliance with and respect for Islamic principles. He indicated that the closing of female bathhouses by the Taliban in the name of Islam and ordering people to paint the windows of their houses up to the first floor so that women could not be seen in fact degraded the value of Islam and of the holy war. The scholar indicated that the potential of women should be used in the economic, political, cultural and medical domains and that women had an important role to play in society.

93. On 27 May, it was reported that the Taliban had stated that they were against women working and indicated that women should stay at home. They are said to have added, however, that they were not against the employment of nurses and doctors in hospitals. It is believed that only 20 per cent of the female workforce in the health sector is currently employed. The question may also be asked about what will happen when the present generation of female Afghan doctors and nurses stop practising their profession?

94. Restrictions against women have been imposed with increased severity in Kabul. Female bathhouses have not been reopened to date. On 24 May 1997, members of the Taliban religious police in Kabul stopped a minibus carrying five Afghan employees of the non-governmental organization CARE International. The women were taken out of the vehicle and beaten, in spite of the fact that their organization had obtained written permission from the authorities allowing them to work. On 1 June, the Deputy Director of the Department for the Preservation of Virtue and Prevention of Vice (religious police) of the Taliban authorities, Mullah Qalamuddin, apologized to CARE International and gave written authorizations for three of its projects employing women, including an emergency feeding programme for households in Kabul headed by widows. The Special Rapporteur was informed that in traditional Pashtun culture it is considered bad to hit a woman. In view of the continued armed conflict, the number of widows supporting families is rising. A women in Mazar-i-Sharif told the Special Rapporteur that 8 out of 10 of the beggars coming to her house were women.

95. On 16 July, the President of the Department for the Preservation of Virtue and the Prevention of Vice addressed a letter to the Kabul office of the Agency Coordinating Body for Afghan Relief containing instructions for the behaviour of staff of non-governmental organizations as well as hospitals (see appendix II to the present report). The instructions, to be observed by all international agencies and Afghan non-governmental organizations, stipulated, inter alia, that the Shariah (Islamic law) did not allow the employment of women in governmental departments or international agencies and that women should not leave their residence. Women would be allowed to work only in the health sector, and agencies were not to employ Afghan women in any other sector. Assistance to widows and needy women was to be provided only through their male blood relatives without the employment of female surveyors. Afghan women were not allowed to travel in a vehicle with expatriates. It has been alleged that a

Taliban leader had stated that there were only two places for Afghan women: in her husband's house and in the graveyard.

96. On 12 August 1997, four Scandinavian non-governmental organizations protested against the policies of the authorities in the areas of Afghanistan controlled by the Taliban that limit severely the activities of aid agencies that extend assistance to women, calling into question the continuation of their operations.

97. On 13 and 14 August, the Minister of State for Foreign Affairs of Norway, Mr. Jan Egeland, visited Kabul where he met with the Taliban authorities to discuss their edicts on gender and the question of female access to education and work. He indicated that he would not recommend to donors to provide any extra funding to Afghanistan unless there was progress towards equality in the coming weeks.

98. In their conversations with the Special Rapporteur, the representatives of the Taliban authorities have continued to provide the usual set of excuses why there is no female education and why women are not allowed to work: "when peace and security is achieved", "there are insufficient funds for implementing segregated education" and "when we take over the entire country". A new one was added during his latest mission to the area: "if we allowed it in this city, there would be protests in other parts of the country". It should be recalled that the Taliban consider the establishment of peace and security in areas of Afghanistan that they control as one of their principal achievements.

99. During his visit to Bamyan, the Special Rapporteur met with, among others, the female members of the Central Council of the Hezbe Wahadat party, which has 10 women, and with the members of the Committee for Women's Affairs of the Hezbe Wahadat party.

J. Preservation of cultural heritage

100. The cultural heritage of Afghanistan has suffered considerably during almost two decades of armed conflict. Numerous archaeological and historic sites have been looted or destroyed, including one of the oldest markets in Asia, the covered bazaar in Tashkurghan, and the Kabul Museum. Other sites are in a serious state of disrepair or have been renovated in a hasty and unprofessional manner. It has been reported that the National Archive in Kabul was threatened by lack of electric power necessary to maintain the records under the appropriate conditions. In addition, the Taliban authorities are said to have destroyed a painting by a renowned artist on a public building in Herat. It was also reported that an animal-shaped marble sculpture had been removed from the site of a historical tomb in the same city. Widespread illegal excavations and looting of historic sites was reported in the Faryab and Badghis provinces, with some of the stones from the Hadda archaeological site destined for use as building materials. The country was described as suffering from both economic and cultural poverty and from having lost its culture and institutions.

101. The Special Rapporteur's attention was drawn in particular to the situation of the two colossal Buddha statues (55 and 38 metres high), which stand in

niches carved in a cliff located in Bamyan Province, an important centre of Zoroastrian, Buddhist and Islamic culture and a crossroads where Hellenistic, Indian, Persian and Chinese cultural influences met. The statues are believed to have been carved in the third or fourth century and one is considered as a masterpiece of Greco-Buddhist art. The taller statue was defaced after the eleventh century but both remain reasonably well-preserved. They are surrounded by a network of tunnels and caves, the walls of which contain important Sassanian and Indian style paintings. Monastic cells in their vicinity, which were once used for habitation, served until recently for storing ammunition. On 16 April 1997, Mullah Abdul Wahid, a commander of the Taliban forces stationed near Bamyan Province, threatened that should his troops enter the area, they would destroy the two statues, one of which is the tallest-standing statue of the Buddha in the world, "because Islam has forbidden statues". On 18 April, the Director-General of UNESCO urged the people of Afghanistan to safeguard their cultural heritage and to preserve the cultural treasures transmitted by their forebears and representing the heritage of all humanity, noting that the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict forbids the destruction of cultural heritage. On 24 April the United Nations Secretary-General issued a statement indicating that he was deeply disturbed by reports that the great Buddhist sculptures in the Province of Bamyan in Afghanistan might be under threat of destruction in the continuing military operations in the area. He appealed to both the political and military commanders involved to ensure that no harm was done to those priceless sculptures, which had purely historical and cultural significance that should be preserved. On 30 April, the Taliban leader Mullah Mohammad Omar stated that the statues would not be destroyed since it was un-Islamic to harm sites associated with other religions and since "the statues are not worshipped". During his trip to Afghanistan in July 1997, the Special Rapporteur visited Bamyan Province and was able to see the Buddha statues. He met with the head of Directorate for the Preservation of Artistic and Cultural Heritage of Bamyan Province and was informed about its activities.

102. Armed conflicts very often result in a breakdown of law and order and generate a climate that is propitious for the looting of a country's cultural heritage. However, it is the demand for antiquities in developed countries that fuels and maintains this illegal activity. The Society for the Preservation of Afghanistan's Cultural Heritage has continued its attempts to acquire objects that originate from illegal excavations or have been looted and exported illegally from Afghanistan. In April 1997, the Society managed to acquire a number of valuable objects that had been stolen from the Kabul museum. The Special Rapporteur was informed by the Secretary-General of the Society that the Pakistan National Commission for UNESCO had issued a general circular letter listing important Afghan cultural artifacts in order to prevent their looting and illegal sale.

103. During a visit to Islamabad in September 1997, the Director-General of UNESCO appealed for international support for the protection of Afghanistan's cultural heritage and pledged to raise the issue at all levels within and outside the United Nations system. He called upon all those exercising any authority in Afghanistan to practise and impose respect for the common cultural patrimony.

VI. SITUATION OF INTERNALLY DISPLACED PERSONS AND REFUGEES

104. Owing to the continued fighting in many parts of Afghanistan, the repatriation of refugees has not been significant during the period under review. The number of Afghan refugees in Pakistan is estimated at 1.2 million while 1.4 million remain in the Islamic Republic of Iran. It is estimated that some 400,000 refugees have arrived in Pakistan over the past year. Repatriation to Afghanistan has almost stopped. The principal reasons cited by refugees for being reluctant to return to Afghanistan are the continuing instability in the country, economic hardship and the absence of education opportunities for girls. During the fighting in May between the Taliban forces and the alliance opposing them, some 10,000 Afghans of Turkmen ethnic origin fled to Turkmenistan and are believed to have returned since then.

105. The Special Rapporteur was informed in July about the difficulties faced by Afghan refugees, including having their houses searched and being stopped on the street and asked for documents. It has been alleged that a large number of male Afghan refugees, including teenage boys, were being arrested and imprisoned for reasons such as lack of a valid passport. Even those with valid documents or those who had sent their passports for extension were reported to have been arrested. In addition, shops and business belonging to Afghans have been closed. Afghan refugee women told the Special Rapporteur that they did not feel safe in Peshawar. It was reported, however, that the Minister for Foreign Affairs of Pakistan had stated on 13 August 1997 that Afghan refugees would not be forced out of Pakistan and that Pakistan would assist with their voluntary repatriation.

106. The Special Rapporteur met with a large group of Afghan refugees at the Nasir Bagh camp near Peshawar. Given the current situation in Afghanistan, many voiced fears about their future since a number of their dwellings had already been razed and they were to be relocated to an alternative site in the area. A Pakistani official from the Commissionerate for Afghan Refugees of the North West Frontier Province assured the refugees in the Special Rapporteur's presence that their relocation would take place gradually, over a period of three to four years, although the authorities would prefer that they repatriate. The refugees informed the Special Rapporteur that since the international community had stopped providing aid to refugees, the first cause of death was lack of food. Some refugees stated that there were those among them who could not afford the cloth in which to wrap a corpse. People had to share a single piece of bread and had no energy to work. The Special Rapporteur was told that a chicken on a farm in a developed country got more food than they did. Most refugees stated that they lived on bread and tea and had no money for medicines when they fall ill. The refugees submitted three proposals to the Special Rapporteur: that they should resume receiving a certain amount of foodstuffs; that the United Nations should deliver assistance directly to the camp; and that they should be informed in advance of any further plans for them in the context of the destruction of the Nasir Bagh camp. The Special Rapporteur was asked if he knew of any other country willing to accept them. The representatives of the Commissionerate for Afghan refugees informed the Special Rapporteur that the principal problems they had encountered concerned the situation of widows and orphans; the lack of vocational training for recent female arrivals; the lack of equipment for blood screening; and problems related to chronic diseases.

107. The Special Rapporteur was informed by a different source that a house with a child in it had been razed in the Nasir Bagh refugee camp.

108. The security of Afghan refugees in Pakistan has on occasion continued to be precarious. On 30 May, it was reported that a former commander of the Hezbe Islami political party and another man had been shot dead by unidentified gunmen in the Hayatabad neighbourhood of Peshawar. An Afghan refugee and his two sons had been reportedly killed in a camp in the vicinity of Peshawar on 28 April. It was reported that the former Governor of Kandahar province had been kidnapped by six armed men on the outskirts of Quetta.

109. The fighting to the north of Kabul has resulted in the displacement of 200,000 persons into the city since the beginning of 1997. Numerous localities have been forcibly emptied of their population by the Taliban forces in order to pre-empt any attempts at resistance. The majority are living with friends and relatives. Few live in public buildings. It is estimated that there are more than 4,000 internally displaced families in the Panjshir valley. The persons arriving from the north came from the fertile Shomali valley. Voluntary return to the Shomali valley is reported to have been systematically obstructed by the Taliban authorities. The inability of the displaced families to cultivate the land has rendered the already serious situation of the population of Kabul even more precarious. In addition, in the camps in Herat, there are some 25,000 registered internally displaced persons, most of whom come from the front line areas in Badghis Province. Allegations of an intentional displacement of population, mostly to hinder perceived support for military opponents, have also been made in this connection. The reference agency for issues relating to internally displaced persons is ICRC; the Office of the United Nations High Commissioner for Refugees (UNHCR) and the World Food Programme (WFP) provide emergency humanitarian assistance. The authorities in Mazar-i-Sharif informed the Special Rapporteur that some 10,000 persons from areas under the control of the Taliban had fled to the northern part of the country.

110. In July 1997, the Special Rapporteur met with members of 39 returnee families who had arrived from the Islamic Republic of Iran the previous day and were living in tents at the Mashlak camp near Herat. They informed him that the Iranian authorities had given them the option of moving to a camp for Afghan refugees or to repatriate to Afghanistan. Most of the returnees had been agricultural day-labourers in an area near the Caspian Sea. They complained that a number of them had not received remuneration from their Iranian employers. The returnees stated that their most pressing problem was to obtain tools in order to build mud houses, a school and a mosque and to construct a well. They also expressed the hope that an additional well could be made available for the neighbouring village, whose inhabitants had helped them considerably on arrival. The returnees told the Special Rapporteur that they wanted education for both the boys and girls at all levels since Islam stipulated that a girl should go to school and have the possibility to obtain a higher education, all while wearing a veil.

VII. HUMANITARIAN CONCERNS

A. Economic and social situation

111. The economic situation in Afghanistan has deteriorated during the period under review. Given the level of destruction and absence of economic infrastructures, the Afghan economy continues to be maintained principally through international aid. In addition, the shifting of the front lines has given rise to serious food shortages. The delivery of humanitarian assistance has been seriously hampered as a result of limitations imposed on both international and Afghan women staff. The economic and social situation in Afghanistan, particularly in areas under the control of the Taliban, has been described in terms of governmental institutions and facilities as having been turned over almost entirely to the international community while their priority is to wage war. The Special Rapporteur was informed, however, that the cooperation of the Taliban authorities with aid organizations was in many cases better than that extended by the previous authorities in some parts of Afghanistan.

112. After the Pakistani authorities imposed a ban on exports of wheat flour to Afghanistan, shortages were reported in the eastern, southern and central regions of the country. It was reported that the price of bread in Kabul had increased up to 40 per cent in a single day owing to local shortages. It is estimated that some 300,000 of the city's inhabitants are dependent on a WFP project that involves subsidized bakeries that sell bread with a subsidy of more than 95 per cent. WFP is estimated to be feeding 25 to 30 per cent of Kabul's most vulnerable population through subsidized bakeries, food-for-work schemes and hospitals. The shortages in Kabul were compounded further by the massive influx into the city of some 140,000 internally displaced persons who were forced by the Taliban to leave the fertile Shomali valley to the north when fighting broke out there. United Nations agencies reported on 15 May that people were begging in Kabul and other Afghan cities for bread rather than for money. It was also alleged that some families were trying to give away children in desperation since they could not afford to feed them. It has been reported that the Taliban were preventing water supplies from reaching people living north of Kabul. Women are thought to be the most needy segment of society, in addition to children and persons maimed by landmines. Afghan non-governmental organizations believe that the solving of the country's economic problems would be conducive to the solving of others.

113. The economic situation is not better in other parts of the country. The price of food is said to be soaring in Jalalabad and the rate of inflation in the region of Herat was estimated at 400 per cent at the beginning of the current reporting period. It should be recalled that owing to the economic situation in many parts of the country, a significant part of the population is surviving on bread and tea alone. Shortages of food and fuel were registered in June in Herat when the Islamic Republic of Iran closed its border with Afghanistan. Prices of food soared and there was a severe shortage of fuel in Mazar-i-Sharif when the border with Uzbekistan was closed. The economic situation was described as being so serious that government employees were not paid. The shortages of fuel also affected vaccination campaigns since there was no fuel to maintain the refrigerators used to store vaccines. The health

situation was particularly negatively affected when the central laboratory in the hospital in Shebergan, in Jowzjan province, was destroyed; 50 per cent of all medical services are reported to be given to the war-wounded.

114. Numerous people were killed and crops and cattle destroyed in May during floods in northern Afghanistan. Some 20,000 persons are believed to have been affected in 10 provinces.

115. The United Nations decided to merge the coordination of humanitarian affairs with the coordination for development in Afghanistan. In trying to address the threats currently facing rehabilitation and development in the country, UNDP is focusing its action on poverty, food insecurity, migration, urban growth, lack of basic urban/rural social and economic infrastructures, environmental devastation and local governance. However, owing to the lack of willingness on the part of the belligerents to implement a ceasefire and arrive at a peaceful solution of the ongoing conflict, the international community is facing unprecedented funding problems regarding aid for Afghanistan. The 1997 consolidated appeal for assistance to Afghanistan for $133 million has received only 29 per cent of the requested funds, the lowest response registered in years.

116. The Special Rapporteur's attention was drawn to the serious humanitarian situation that began developing in July and August when the Taliban started preventing international aid, including food and medicines, from transiting through the areas they control to affected populations in a number of areas in Ghazni and Hazarajat. On 12 August 1997, four Scandinavian non-governmental organizations announced that they would be forced to consider the possibility of reviewing their involvement in assisting vulnerable people in areas controlled by the Taliban if they continued to be prevented from carrying out their activities in accordance with fundamental humanitarian principles such as the one that aid should be provided to all people in need, regardless of gender and political, religious or ethnic affiliation.

117. Although FAO and WFP estimated that the cereal production in Afghanistan could be 18 per cent higher than the harvest in 1996, the country would still require 170,000 tons of emergency food aid over the next year for the most vulnerable segments of its population: female-headed households, returnees, internally displaced persons, the sick and the elderly.

118. It was reported in July that persons living in the areas north of Kabul were not allowed by the Taliban to harvest their wheat in retaliation for their alleged support for the anti-Taliban opposition forces. Problems had arisen mostly in cities. The situation grew worse at the end of August when it was reported that the Taliban, retreating from the Shomali valley north of Kabul, were poisoning wells, destroying irrigation channels and laying new mines in villages.

119. The Administrator of UNDP, Mr.James Gustave Speth, visited Afghanistan at the beginning of September. Mr. Speth said that the world was prepared to provide large-scale assistance for reconstruction and development in Afghanistan but that would not be forthcoming until peace had been established, since the

international community was not prepared to make large investments now, fearing that any gains could be lost.

120. On 2 July 1997, the United Nations Coordinator for Afghanistan stated that the level of suffering experienced by the Afghan people was horrendous. He indicated that the lack of nutrition among the population had resulted in numerous women giving birth to underweight babies with undersized brains, 18 per cent of whom died in infancy. A quarter of the children who survived infancy died before the age of five. In addition, the shortage of adequate health facilities resulted in children dying of easily preventable diseases such as diarrhoea and measles. The Special Rapporteur was informed that serious levels of malnutrition among children and pregnant women were being experienced in the Kandahar, Uruzgan (50 per cent) and Jalalabad (12 per cent) areas. The situation was also serious north of Kabul. The Special Rapporteur was informed that there were 1,700 deaths for every 100,000 children born, one of the highest rates in the world. Lack of infrastructure, manpower, interest and medicines were cited among the root causes by representatives of Afghan non-governmental organizations. Most Afghan children suffered from a denial of childhood caused by the psychological impact of growing up in an oppressive military environment. It has been reported that boys up to the age of 10 are employed to search women at checkpoints while girls aged over 7 are considered too mature to go to school or to be uncovered. Young boys are reportedly also actively recruited for fighting.

121. The number of street children in Kabul has risen dramatically since 1996 from an estimated 28,000 to some 50,000 to 60,000 at present. The Afghan non-governmental organization Aschiana has two centres for street children in the Shar-i-Nau and Khair Khana neighbourhoods of Kabul where boys up to the age of 14 and girls up to the age of 7 are given general and health education, a meal and weekly medical checkups. Even children who have access to school have been forced to leave by the current economic situation in order to help their families, principally through begging. Many children collect scrap metal and are maimed by landmines. It has also been alleged that body organs are sold for research, especially in Kabul.

B. Mines

122. Afghanistan is believed to have one of the largest number of landmines in the world, possibly numbering as much as 10 million. It is estimated that between 20 and 25 persons are maimed or killed by mines in the country every day. More than 80 per cent of them are civilians, one third of them believed to be children. Given the lack of proper medical facilities and care, most victims, and especially children, die of their injuries. It is estimated that 400,000 persons have been maimed by mines in Afghanistan. Mines are among the principal reasons why Afghan refugees are reluctant to return to their country.

123. Despite the continuing demining programmes of the international community, new mines were laid in March 1997 in Nimroz Province by both the Taliban and the forces opposing them. In May, it was reported that new mines had been laid between Jalalabad and Kunar and that civilian transport vehicles had been blown up. In addition, nomadic livestock herders are reported to have been prevented

from going to summer pastures north of Kabul by newly laid mines. A tractor was destroyed in August with the explosion of an anti-tank mine contained in soil and clay that had been brought to a village for making mud bricks.

124. It was reported that on 26 May 1997, the leader of the Taliban, Mullah Mohammad Omar, had called for an end to the use of landmines, describing their use as "un-Islamic".

125. The Mine Action Plan for Afghanistan is reported to be in serious financial crisis. If funds run out, the Mine Clearance Programme risks having to discontinue its activities or ask its staff to work on a voluntary basis. This would entail the suspension of activities of 18 manual demining and explosive ordnance disposal teams. It has been reported that the Mine Action staff had already taken a 30 per cent voluntary cut in salary. Numerous valuable initiatives by the Monitoring, Evaluation and Training Project are also affected. There has been an increase in mine dog capacity in view of the fact that the use of mine dogs has proved to be one of the least expensive and quickest ways of surveying and clearing minefields. It is estimated that the cost of mine clearance using dogs may amount to only 25 cents per square metre.

126. On 21 June 1997, the Afghan Campaign to Ban Landmines launched the second annual mine action and awareness month with the objective of educating and mobilizing Afghan people in the International Campaign to Ban Landmines and of drawing attention worldwide to the situation of landmines in Afghanistan and increasing the awareness of political and military leaders about the problem.

127. The Special Rapporteur wishes to pay homage to the late Diana, Princess of Wales, for her invaluable contribution to heightening awareness worldwide about the problem and destructive effects of landmines and hopes that the momentum of her achievements in this domain will be maintained.

C. Opium production

128. Opium is produced in 10 out of 29 provinces in Afghanistan, 96.4 per cent of whose territory is under the control of the Taliban movement. It is estimated that some 200,000 families comprising approximately 1 million people rely on income from opium production for their livelihood. The annual income of these farmers is estimated at $60 million. The processing is done partly inside the country. There is a close connection between the production of narcotics and the ongoing civil war. The United Nations International Drug Control Programme has had a growing role in addressing the drug problem in the country. In 1996 it approved a four-year programme of assistance to Afghanistan.

129. It was reported in September 1997 that Afghanistan had become the biggest producer of dry opium in the world, with an estimated production in 1997 of 2,800 tons, a 25 per cent increase over 1996, and more than the combined production of Burma, the Lao People's Democratic Republic and Thailand. The area of cultivation is reported to have increased by 2.8 per cent, principally in Helmand and Kandahar provinces which are controlled by the Taliban movement. Less than 1 per cent of the population of Kandahar was believed to be addicted to drugs. Allegations have been made that the Taliban collect a 10 per cent

"zakat" tax on the income generated by the poppy production. It should be noted, however, that the Taliban have fully consented the implementation by the United Nations International Drug Control Programme of the programme to eradicate poppy cultivation.

130. The Taliban authorities are reported to have taken measures to ban the cultivation, sale and use of illegal drugs and have warned that anyone engaging in this type of activity would be punished. It was reported that Radio Shariah had announced on 20 August in Kabul that the production, sale and taking of both heroin and hashish were banned. The Taliban representative in Islamabad informed the Special Rapporteur that in addition to constituting a hazard for health, drugs were considered as bad in Islam and voiced the readiness of the Taliban to cooperate with the international community in eradicating them. He indicated that one of the ways to address the issue was to provide the farmers growing opium poppy with an incentive to plant alternative crops and provide them with agricultural tools, seeds and fertilizers. It was reported that the Taliban authorities had announced that smugglers addicted to drugs were arrested, beaten up on a daily basis and left in cold water for three hours.

131. It was reported in May that the religious leaders in the Wakhan district of Badakhshan Province had estimated that 70 to 80 per cent of the population was addicted to opium. The entire district population was said to be malnourished and the addiction was alleged to stem from poverty and the lack of food. Most of the people were believed to have become addicted to opium when they took it in order to offset hunger. The Special Rapporteur was informed in Mazar-i-Sharif in July 1997 that many men in the area had become addicted to drugs out of desperation over lack of jobs, thereby making their wives the breadwinners in the family.

132. On 9 July 1997, in a statement by the President (S/PRST/1997/35), the Security Council stated that the continuation of the conflict in Afghanistan provided a fertile ground for terrorism and illegal drug production and trafficking that destabilized the region and beyond and called upon Afghan leaders to halt such activities.

VIII. CONCLUDING OBSERVATIONS

133. The political and military situation in Afghanistan remained extremely volatile during the period under review, which has had a direct negative bearing on the situation of human rights. The humanitarian crisis in the country is chronic and the economy heavily dependent on international aid. The unabating conflict is preventing the Afghan people from exercising their right to self-determination as well as their right to development. Security has deteriorated throughout the country.

134. The Administrator of UNDP, Mr. James Gustave Speth, visited Afghanistan at the beginning of September and stated that the international community was ready to help in the reconstruction of Afghanistan but would wait for the return of peace. The economic situation of Afghanistan could improve and respect for human rights could not be restored while civil war was waged on several fronts throughout the country.

135. The Special Rapporteur welcomes the amnesty decree issued by the Supreme Court of the Taliban authorities on 26 June 1997 and invites the authorities in other parts of the country to do the same.

136. The situation of women has deteriorated further, particularly in areas controlled by the Taliban movement.

137. The Special Rapporteur heard persistent affirmations from qualified sources that the policies applied by the Taliban in the areas under their control did not constitute a correct interpretation of the Shariah (Islamic law) but were at best a narrow tribal and rural code of conduct in limited parts of Afghanistan.

138. The instructions issued by the Taliban religious police on 16 July 1997 constituted a further setback with regard to the gender issue. They have effectively cut off Afghan women from the rest of the world. Restrictions have also been placed on women and their situation has deteriorated in the north of the country controlled by the United Islamic Salvation Front of Afghanistan. Humanitarian assistance programmes have been significantly affected by the gender policy in all parts of the country.

139. The measures taken by the Taliban during the period under review clearly indicate that they have realized that support for their movement among the population of Afghanistan has eroded further during the period under review. The measures include the forced displacement of populations living to the north of Kabul, shooting their compatriots trying to leave the city, pre-emptive arbitrary arrests of persons in areas and cities under their control on the basis of their ethnic origin or perceived political affiliation, a stricter enforcement of the behaviour and dress code, increasing attempts to control the activities of national and international aid agencies and to place conditions on the international community, preventing international aid from reaching areas that are not under their control, attempts to cut off the international community from any contact with women in Afghanistan and the recent warning issued to foreign journalists affecting their freedom to exercise their profession impartially and objectively. These measures demonstrate that approval for their policies and their power base had diminished further.

140. The Special Rapporteur has difficulty understanding why representatives of the Taliban authorities believe that the rights and dignity of women could be violated as soon as they step out of the house since they claim that they have brought about total security for women in Afghanistan. He also fails to understand why brothels and prostitution were mentioned in connection with the employment and education of women.

141. The non-governmental organizations working in the field have urged the Special Rapporteur to advise the United Nations to adopt a "bottom-to-top" approach in the application of programmes and policies instead of the current top-to-bottom one. The Special Rapporteur believes that this suggestion is also valid in the field of human rights.

142. The Special Rapporteur welcomes the undertakings made by the Taliban authorities to curb the cultivation and production of narcotics and invites the

authorities in the whole country to cooperate with the United Nations International Drug Control Programme.

143. The Special Rapporteur is greatly encouraged by the activities of the youth involved in the NATURE and Rescue Mission projects in Mazar-i-Sharif who should receive more support from the international community.

144. It is believed that the situation of human rights in Afghanistan and all of the country's other problems would be resolved if countries with influence in the world community paid more attention to Afghanistan.

IX. RECOMMENDATIONS

145. In view of the current situation of human rights in Afghanistan the Special Rapporteur strongly endorses the deployment of a human rights resource person in the field who would advise both the representatives of the international community as well as Afghan actors on all aspects of human rights. The designated person would advise the Resident Coordinator and the United Nations system on relevant human rights issues in the present situation; organize a series of information dissemination workshops/sessions for relevant audiences including local authorities in Afghanistan, project staff and non-governmental organizations; and identify possible programme activities that will have a positive impact on governance in general and human rights in particular.

146. The Special Rapporteur invites the authorities in all parts of Afghanistan to ensure the fundamental human rights and dignity of the Afghan people. Minimum standards for the protection of human rights concern human beings and transcend religious beliefs, value systems, traditions and customs and are in that sense irrelevant to political systems. He urges the Afghan authorities to act in accordance with international human rights instruments, to which Afghanistan is a party.

147. The Special Rapporteur invites the provincial authorities throughout Afghanistan not to jeopardize the lives of the civilian population by storing weapons and ammunition in residential areas.

148. The Special Rapporteur invites the authorities in all parts of Afghanistan to lift the restrictions placed on Afghan women, as well as the restrictions imposed on the international aid community.

149. Education for all without discrimination should be restored immediately in all parts of Afghanistan. The international community should be generous in its contributions to that effect. The Special Rapporteur believes it would be beneficial for the Taliban to accept the offer of the Government of Norway concerning funding of schools for boys and girls.

150. The international community should pay much greater attention to the implications of the current educational policies in Afghanistan for generations in the medium and long term that render the whole country ill-equipped for the twenty-first century.

151. Greater gender awareness should be created in Afghan society, in particular among men. Gender awareness should also be enhanced among the international community through mandatory training on the subject.

152. The international community should safeguard basic human rights in Afghanistan, adhere to a principle-centred approach of non-discrimination in all of its activities and adopt a unified stand with regard to the constraints imposed on both women and men in Afghanistan.

153. The international community should try to work within the constraints encountered in Afghanistan to the best of its ability without compromising its non-derogable principles. The United Nations and other international agencies should ensure that their middle-level professionals in the field and not only heads of offices are well qualified in view of their close daily exposure to the tasks at hand.

154. The United Nations and all Member States should examine in detail the human rights record of the Taliban movement when considering their request for international recognition. Very careful consideration should be given to the actions of a group that is willing to shoot its own compatriots if they try to leave the country's capital and whose policies amount to removing more than half the country's population from the economic, social, cultural, civil and political map. Extremely serious consideration should be given to the short-, medium- and long-term implications of the policies of the Taliban on the present and future generations of Afghanistan in the context of the current situation regarding education and health.

155. ICRC should be given access to all prisoners in Afghanistan. Prisoners should be treated in accordance with internationally acceptable standards and should not be used as bargaining chips or human shields. All non-criminal prisoners should be released. The practice of arbitrary arrests and detention should be halted.

156. The Special Rapporteur strongly encourages urgent contributions to the United Nations Mine Action Programme whose staff are already working at reduced wages while risking their lives on a daily basis. He encourages all sides in the conflict definitively to stop laying landmines.

157. The Special Rapporteur recommends that the momentum of heightened awareness worldwide about the problem and effects of landmines that was created by the late Diana, Princess of Wales, be maintained in an appropriate way and with the necessary means.

158. The Special Rapporteur invites the greater involvement as well as more contributions by the international community for the Marastoon home for orphans and disabled persons in Mazar-i-Sharif and the Aschiana organization in Kabul.

159. International archaeologists should be encouraged to return to Afghanistan. Museums and collectors should stop buying historic artifacts of unknown provenance from looters and their agents. Auction house sales should be monitored on a regular basis. The international community with agencies in the

field should closely monitor the situation of historical and archaeological sites in Afghanistan.

160. In view of its invaluable work regarding the cultural heritage of Afghanistan and in particular the recovery of illegally excavated and looted objects, the Special Rapporteur recommends that voluntary contributions be made to the Society for the Preservation of Afghanistan's Cultural Heritage.

161. The Special Rapporteur urges the Government of Afghanistan to sign the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage.

APPENDIX I

Declaration of Amnesties and Invitation to Afghan Refugees to Repatriate issued by the Supreme Court of Afghanistan on 26 June 1997

The Taliban Administration,

Confident that the areas under their administration are enjoying peace, stability and social and economic progress;

Underlining the right and freedom of all Afghans living outside their country as refugees to return to their places of habitual residence or to establish residence in any part under their control, and to participate in the process of national reconciliation and consolidation of peace, shura and social development; according to Shariah law;

Desirous to take further confidence-building measures to promote the expeditious voluntary return and reintegration of Afghan refugees in safety and with dignity;

Hereby,

(a) Call upon, invite and encourage all Afghan refugees to return to their country and settle in a place of their choice in any part under their control and participate fully in the process of national reconciliation, reconstruction, consolidation of peace; shura and social and economic development;

(b) Declare the following:

Return in safety and dignity

1. The voluntary repatriation and reintegration shall take place in conditions of safety and dignity according to recognized Islamic Shariah.

2. No returnee shall suffer any form of harassment, discrimination, persecution or any other form of punitive action on account of having fled Afghanistan and having sought and found refuge in Pakistan, the Islamic Republic of Iran or any other country.

3. No returnee shall be subject to harassment, intimidation, discrimination or persecution for reasons of race, religion, nationality, membership of a particular social group, political opinion or gender.

Amnesty

4. All returnees, irrespective of their political affiliations, are exempted from prosecution for all criminal offences committed for whatever reason prior to, or in, exile except of those criminal offences committed against other persons. This exemption includes, inter alia, having left Afghanistan and having found refuge in Pakistan, the Islamic Republic of Iran or any other

country, joining different commanders, draft evasion and desertion as well as the act of performing military service in internationally non-recognized armed forces.

Respect for human rights

5. In common with all other citizens, the human rights and fundamental freedoms of returnees will be accorded full respect.

Returnee monitoring

6. UNHCR and other international agencies as appropriate will be allowed and will receive full cooperation and access to monitor the treatment of returnees in accordance with humanitarian and human rights standards, including the implementation of commitments contained in this Declaration.

Access to land

7. Returnees will have access to land for settlement and agricultural use in accordance with Afghanistan laws.

Property

8. All measures will be taken to facilitate, to the extent possible, the recovery and restitution to the returnees of their land or other immovable property that they may have lost or left behind. Failing this, returnees will be assisted to obtain reparation for loss of such property.

Military and other obligatory service

9. In order to support their reintegration, returnees will be exempted from any outstanding military services or other obligatory service for the period of one year. Positive consideration will be given to requests for a complete exemption from military or other service obligations.

Date: 26 June 1997

(Signed) Alhaj Abdul Satar SANAIE
Chief Justice
The Supreme Court of the Islamic State
of Afghanistan

APPENDIX II

Letter dated 16 July 1997 from the President of the Department for the Preservation of Virtue and the Prevention of Vice addressed to the Kabul office of the Agency Coordinating Body for Afghan Relief

The General Department of Amri Bil Maruf Wa Nahi Anal Munker (the Department for the Preservation of Virtue and the Prevention of Vice) thanks the Agency Coordinating Body for Afghan Relief for its cooperation with this Department. We acknowledge the receipt of a number of charters and working policy of the international and Afghan non-governmental organizations. This Department has studied all the charters of the international and Afghan non-governmental organizations, which appear reasonable to us. One of the important commitments that our Department has to come up with is to adjust the society according to the Islamic Shariah standards. These standards can guarantee the development of a society towards intellectualization and immaterialization and create a certain blockage against external devious-making cultures into our Islamic culture.

Therefore, as an immediate step to apply virtual aims in our country we have developed the following two regulations, which were prepared in accordance to the instruction of Shariah law by our Department:

Annex 1 consists of 8 points relevant to all agencies.

Annex 2 consists of 11 points relevant to all hospitals and clinics.

Please circulate the annex 1, which carries eight items, to all international agencies and Afghan non-governmental organizations and annex 2 to all concerned hospitals and clinics, according to which they should carry out their activities.

A comprehensive edict that will include all instructions and working directions for international agencies and expatriates is undergoing deep and full consideration. This document will cover all aspects and will be sent to you upon completion.

(Signed) Alhaj Mawlavi QALAMUDDIN
Administrative Assistant and Care Taker
General Department for the Preservation
of Virtue and Prevention of Vice

Annex 1

Regulations for all international and national agencies

"There must be a group of people amongst you to conduct the others towards goodness, welfare, virtues and prevent them from vices. The Islamic Shariah law is completely valid in our country (Afghanistan). Therefore, all Muslim citizens should observe and act accordingly." Translation from Hadith

All the expatriates who are living in Afghanistan should respect and observe the Islamic laws and rules. Based on the policy and working directions of this Department we communicate the following:

1. All humanitarian assistance provided by the international community should be given without any condition.

2. The Shariah (Islamic law) of our country does not allow the employment of women in government departments or international agencies. Women should not go outside their residence. This should be observed by all international agencies and Afghan non-governmental organizations.

3. Women are allowed to work only in the health sector at hospitals and clinics. Agencies should not employ any Afghan women in any other sector.

4. Any local staff members of agencies who do not observe the Shariah (Islamic law) should be advised by the agency. Again, in case of violation, this Department will have to take a serious action against the staff member.

5. Assistance to widows and poor women should be provided through their blood relatives without the employment of female surveyors.

6. Women are allowed to work in vocational sectors such as embroidery, weaving etc., in which case they do not leave their houses. Our Department should be informed beforehand through the blood relatives.

7. If the international agencies or Afghan non-governmental organizations decide to employ or assist females, they should first obtain permission from our Department.

8. To identify the real beneficiaries in surveys, the Mullah, Wakil and three elders of the district should be contacted.

Annex 2

Regulations for hospitals and clinics

1. All humanitarian assistance provided by the international community should be given without any condition.

2. In hospitals where women are hospitalized, male doctors and visitors should announce their entrance into a room before entering.

3. It is illegal and forbidden for women to use cosmetics and wear fashionable dress in hospitals.

4. Wherever women are employed they should preserve their dignity and walk calmly. They should avoid creating noise by their foot steps.

5. It is forbidden for women to visit hospitalized male patients when there is somebody else in the room unless they are blood relative.

6. All male and female patients and others have to pray at the proper time, except those who may have some legitimate and reasonable excuses.

7. All hospital personnel should observe the Shariah (Islamic law). They should be advised in case of a violation. In cases where he/she does not accept this, the hospital head should take serious action against him/her or inform our Department.

8. Women using office vehicles should not sit beside the driver.

9. No Afghan woman is permitted to travel in a vehicle with expatriates.

10. Afghan women cannot be appointed as senior staff in expatriates hospital.

11. Agencies working in health sector do not have the right to send Afghan women outside the country for any reason. If there is an urgent need, agencies should get the approval of our Department.

The above-mentioned 11 points are the directions under the Shariah (Islamic law) which should be respected. Nobody can disallow our supervisory teams, who may take control of the hospitals at any time.